

COCHISE COUNTY DRUG & ALCOHOL POLICY

AND TESTING POLICY

I. STATEMENT OF POLICY

Cochise County is strongly committed to programs and policies that promote safety in the workplace, employee health and well-being, public safety and confidence. Employee use/abuse of controlled substances and alcohol adversely affect job performance, employee morale, jeopardizes employee and public safety, and undermines public confidence and trust.

The goal of this policy is to establish and maintain a safe workplace and a healthy and efficient workforce free from the effects of drug and alcohol use/abuse. Consistent with the spirit and intent of this commitment, Cochise County has a zero tolerance policy on the use, possession, or distribution of controlled substances and/or alcohol on the job by employees.

II. PURPOSE AND SCOPE

This Policy establishes the rules which govern the maintenance of a drug-free and alcohol-free workplace for Cochise County employees.

This policy applies to employees, volunteers or those who are under lease by Cochise County, who hold safety sensitive positions either full-time, part-time, temporarily, intermittently or occasionally.

The post accident and reasonable suspicion testing provisions of this Policy shall apply to all County employees.

Employees who occupy safety sensitive positions, including Commercial License Drivers (CDL), shall also be subject to pre-employment and random testing under this Policy. See Attachment A for a listing of safety sensitive positions.

This policy also applies to the employees of the Judicial Branch. Employees of Juvenile and Adult Probation must ~~also~~ comply with the requirements of the Arizona Code of Judicial Administration.

Discipline of Judicial employees is within the sole discretion of the Arizona Superior Court in Cochise County.

III. AUTHORITY FOR DOT TESTING

The authority for the Department of Transportation (DOT) testing is found in Federal Highway Administration (FHWA) regulations 49 CFR Part 40, and 49 CFR Part 382. The FHWA requires employers to test employees for use of alcohol and controlled substances. The Human Resources Department is authorized to update the list of employees subject to Federal controlled substance and alcohol testing laws and to incorporate any future updates to the Federal law which affects the DOT without obtaining pre-approval from the Board of

Supervisors.

Title 49 CFR Part 382.109, preempts any State or local law, rule, regulation, or order. State criminal law sanctions may also apply.

IV. GENERAL RULES REGARDING CONTROLLED SUBSTANCES AND ALCOHOL

- A. The use, manufacture, possession or distribution of any controlled substance(s) or the manufacture, possession or consumption of alcohol by any employee either on Cochise County property, in a County vehicle, or in a privately owned vehicle while on County business, will be grounds for disciplinary action, up to and including termination. ~~Possession of a controlled substance in conjunction with a valid prescription is permissible.~~ A positive test result for controlled substances ~~or a blood alcohol test (BAC) result of .02 or greater~~ will be grounds for ~~disciplinary action, up to and including termination.~~
- B. Employees taking over-the-counter or prescribed medications are responsible for being aware of any effect the medications may have on the performance of their duties. Employees must promptly report to their supervisors their use of these medications if it is likely to impair their ability to perform assigned tasks. Failure to notify their supervisor of such use shall be a violation of this policy. The County does not seek, nor is the employee required to provide, any confidential medical information and/or condition protected by the Health Insurance Portability and Accountability Act (HIPPA). Employees tested under this policy found to have a concentration of over-the-counter or prescribed medications which exceeds the prescribed level or recommended dosage shall be subject to disciplinary action, up to and including termination. ~~No disciplinary action will be taken if the employee has a valid prescription from a licensed physician, is taking the prescribed medication as medically directed and the medication does not impair the employee's ability to safely perform his or her duties.~~
- C. An employee authorized or required to drive County vehicles or equipment or who is using their privately owned vehicle (POV) to conduct County business has a duty to self report any controlled substances or alcohol arrests and/or convictions to their supervisor which occurred either on or off duty. Failure to self report may subject the employee to disciplinary action, up to and including termination.
- D. ~~Safety Sensitive~~ An employee's shall not consume alcohol: 1) when on duty, 2) four (4) hours prior to on duty time and 3) up to eight (8) hours following an incident or until the employee undergoes a post-incident test, whichever comes first.

V. CONFIDENTIALITY OF TEST RESULTS To the extent permitted by state and federal law, all records created or obtained regarding the results of controlled substance or alcohol tests shall remain confidential and shall be kept in dedicated secure files separate from the employee's personnel file and shall be released only upon the employee's written request or applicable law. This information shall be maintained pursuant to applicable retentions schedules. The employee may make a written request for a copy of their test results to Human Resources. The employee

shall be notified if the results are released pursuant to court order, legal or termination proceedings.

VI. CONTROLLED SUBSTANCE AND ALCOHOL TESTS AND TESTING PROTOCOL

- A. The substance screen includes, but is not limited to, the following: alcohol, marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP).
- B. A urine test will be conducted to determine the presence of controlled substances. The sample shall be tested using an immunoassay combined with a gas chromatography/mass spectrometry (GC/MS).

C. If an Evidentiary Breath Test (EBT) is available, the alcohol test will be administered by a Breath Alcohol Technician (BAT) or other qualified medical professional. Otherwise, a blood test will be administered by a licensed phlebotomist to detect the presence of alcohol. These tests shall comply with scientifically accepted analytical methods and procedures. All controlled substance tests shall be completed at a laboratory approved or certified by the Arizona Department of Health Services.

D. In the event of reasonable suspicion or post accident testing, the employee's Supervisor shall call Human Resources. The Supervisor or Human Resources shall arrange transportation of the employee to the testing location and either back to the workplace or to the employee's residence, dependent upon test results and a determination by the Department Head or Supervisor in conjunction and participation with Human Resources.

- E. The County shall use a Medical Review Officer (MRO) who shall receive the laboratory results of the tests performed. The MRO shall be a licensed physician with knowledge of substance abuse disorders and appropriate medical training to evaluate positive test results, medical history, and any other relevant biomedical information.

The MRO will be the sole custodian of the individual test results. The MRO, or servicing lab representative, will advise Human Resources of positive test results. The MRO shall review all relevant medical records and make all reasonable efforts to contact the employee to conduct a verification interview by which the employee may provide an explanation for a positive result. The MRO shall review all specimens which are found to be adulterated or substituted specimens and report this information to Human Resources.

After receiving notification of a verified positive test or an adulterated or substituted specimen, an employee may request that the split urine sample be analyzed. This request must be made within seventy two (72) hours of notification of the verified positive test. If such a request is made, the MRO shall direct the laboratory in writing to provide the split sample to another DHS certified laboratory. The split test shall be at the employee's expense and made payable to the laboratory. Upon written request within seven (7) days of Human Resources receipt of a verified positive test, the employee may obtain copies of any records pertaining to the drug/controlled substance tests.

VII. ADMINISTRATIVE LEAVE STATUS PENDING TEST RESULTS

An employee required to submit to a controlled substance or alcohol test ~~for reasonable suspicion may shall~~ be placed on Administrative Leave with Pay pending test results. If the controlled substance test result is positive or if the alcohol test is above a .02, the employee shall remain on Administrative Leave with Pay pending disciplinary action, up to and including termination.

VIII. REFUSAL TO TEST

An employee's refusal to fully submit to the testing process shall be considered a failure of the testing requirement and shall result in disciplinary action, up to and including termination.

~~VIII. NEGATIVE DRUG OR ALCOHOL TEST RESULTS~~

~~If the results of the controlled substance test(s) are negative, or if the results of the alcohol test are below .02, no disciplinary action will be taken and the employee shall be returned to work as soon as possible.~~

IX. INCONCLUSIVE TEST RESULTS

In the event of an inconclusive test result and where a split sample has been reserved, a second test shall be performed at no cost to the employee.

X. POSITIVE RESULTS

~~If the results of the controlled substance test(s) are confirmed positive, the employee shall be terminated.~~ An employee shall be subject to disciplinary action, up to and including termination ~~terminated~~ if the results of an alcohol test are a .02 or above or if the controlled substance test(s) are confirmed positive.

A positive alcohol test with a result of .02 or greater for a safety sensitive employee shall result in the immediate removal of the employee from the safety sensitive position and shall not be allowed to return to duty until 24 hours after the positive test result and has successfully passed a follow up breath alcohol test. The employee shall be subject to disciplinary action, up to and including termination.

XI. CIRCUMSTANCES REQUIRING CONTROLLED SUBSTANCE OR ALCOHOL TESTING

A. REASONABLE SUSPICION TESTING - ALL EMPLOYEES

Reasonable suspicion is more than a vague suspicion. Controlled substance or alcohol testing based on reasonable suspicion may be established by direct observation or credible reports. Observation and credible reports may include, but are not limited to, observed use of controlled substances or alcohol, erratic or abnormal behavior or statements, and physical appearance or symptoms e.g., difficulty in activities requiring coordination, walking, speaking, or the odor of intoxicants. All information, including conversations, shall be documented.

B. POST ACCIDENT TESTING – ALL EMPLOYEES

Where reasonable suspicion exists to support such testing, an employee shall submit to a controlled substance or alcohol test if the employee is involved in an incident, whether on or off County property, which involves County vehicles, equipment, or POV's being used for County business which results in injury to themselves, other person(s) or damage to property. Testing should be done immediately ~~as set forth below, but no later than four (4) hours after the incident.~~ In the event of alcohol or

controlled substance testing, the driver shall not consume alcohol or ingest controlled substances until the testing process has been completed.

1. If the employee has not submitted to an alcohol test within two (2) hours, the Supervisor shall prepare a report stating the reason a test was not completed and shall forward the report to Human Resources.
2. If the employee has not submitted to an alcohol test within eight (8) hours, all efforts to obtain a sample shall cease. The Supervisor shall prepare a report stating the reason the test was not administered and shall forward the report to Human Resources.
3. If the employee has not submitted to a controlled substance test within thirty-two (32) hours, all efforts to obtain a sample shall cease. The Supervisor shall prepare a report stating the reason the test was not administered and shall forward the report to Human Resources.

C. RANDOM TESTING –SAFETY SENSITIVE POSITIONS

Human Resources shall coordinate unannounced random testing of employees designated as occupying County safety sensitive positions. (See Attachment A) An employee's refusal to fully submit to the testing process shall be considered a failure of the testing requirement and shall result in disciplinary action, up to and including termination per Section VIII. An employee selected for random testing who is absent from duty on the date designated for the random test will not be informed of the selection. All safety sensitive employees shall remain in the random pool at all times, even if they have been previously selected for testing.

D. PRE-EMPLOYMENT AND RE-EMPLOYMENT TESTING- SAFETY SENSITIVE POSITIONS

Following an offer of employment, a pre-employment test for controlled substances will be required of all potential employees to be employed in safety sensitive positions. Employment is conditioned upon the test results.

An employee in a safety sensitive position will be tested upon re-employment if the employee has a break in service of more than 30 days.

XII. ~~SUPERVISOR~~—RESPONSIBILITY REGARDING ACTUAL KNOWLEDGE OR REASONABLE SUSPICION OF CONTROLLED SUBSTANCE OR ALCOHOL USE

A Department Head, Supervisor or their designee, having either actual knowledge or reasonable suspicion, including information obtained from a credible source, that an employee has the presence of a controlled substance or alcohol in their system shall not permit the employee to continue their work assignments and has an affirmative duty to immediately report their knowledge or observations to the Deputy County Administrator. The Department Head or Supervisor shall document the specific facts giving rise to the actual knowledge or reasonable suspicion, including conversations.

The following guidance shall apply to the Judiciary in regards to supervisor responsibility regarding actual knowledge or reasonable suspicion of controlled substance or alcohol use. All Judicial Department Heads who have actual knowledge or reasonable suspicion shall immediately contact the Judicial Human Resources Director. If unavailable, the Superior Court Administrator shall be contacted. The Director will oversee policy compliance and coordinate with the County Human Resources Department.

Any County or Judicial employee having either actual knowledge or reasonable suspicion, including information obtained from a credible source, that an employee has the presence of a controlled substance or alcohol in their system has an affirmative duty to immediately report their knowledge or observations to their immediate supervisor and/or Department Director. The Department Director or supervisor shall document the specific facts giving rise to the actual knowledge or reasonable suspicion, including conversations.

XIII. PROCEDURES FOR INCIDENTS OCCURRING ON OR OFF COUNTY PROPERTY WHERE ALCOHOL OR CONTROLLED SUBSTANCES IS REASONABLY SUSPECTED

Any incident involving County vehicles, equipment or privately-owned vehicle (POV) being used for County business, whether on or off County property, must be reported. Employees shall notify their Department Head or Supervisor as soon as possible of any and all incidents involving County vehicles, equipment, or POV's used for County business. Upon notification, and the Department Head or Supervisor shall:

1. Ensure that appropriate emergency response agencies (medical, fire, law enforcement etc) have been contacted, as needed,
2. The employee and supervisor shall cooperate with law enforcement if applicable,
3. Ensure the incident area is safe and does not pose a threat to the safety of others,
4. Contact Human Resources to report the incident,
5. In coordination with Human Resources, explain to the employee if drug or alcohol testing is required and advise the employee of the consequences for failing to comply.
6. Arrange employee transportation to the designated testing facility,
7. Arrange for the employee to be provided transportation home after undergoing the required drug and alcohol testing.

XIV. POLICY COMMUNICATION RESPONSIBILITIES

- A. County Responsibility: In order to ensure complete dissemination of this information, the County will make this Policy available by providing a copy to the employee upon hiring and upon request. This Policy will be placed in each permanent work location. This Policy will also be available to employees via a link on the County's intranet site and for applicants on the County's Human Resources website.

- B. Employee Responsibility: Each employee is responsible for reading and complying with the policy. Failure to read any part of the policy does not relieve the employee of the responsibility to abide by the provisions of the policy. Each employee shall be required to sign an Employee Acknowledgment Form (EAF). See Attachment B for copy of the EAF. Refusal to sign the EAF shall result in disciplinary action, up to and including .

XIV. EDUCATION AND TRAINING PROGRAM

Cochise County shall establish a minimum of 120 minutes of training for [all Supervisors](#) responsible for overseeing employees on the physical, behavioral and performance indicators of controlled substances and/or alcohol abuse.

XVI. DESIGNATED CONTACTS FOR COUNTY HUMAN RESOURCES

Primary: Wendy De La Cruz

Benefits Coordinator

1415 Melody Lane, Bldg F

Bisbee, AZ 85603

Desk Phone: 520-432-9706

Cell Phone: 520-559-4025

Fax: 520-432-9716

Secondary: Chris Mullinax

Safety/Loss Control Analyst

1415 Melody Lane, Bldg F

Bisbee, AZ 85603

Desk Phone: 520-432-9720

Cell Phone: 520-234-4613

Fax: 520-432-9716

XVII. DESIGNATED CONTACTS FOR JUDICIAL HUMAN RESOURCES

Primary: Tracey Romero

Judicial HR Director

101 Quality Hill

Bisbee, AZ 85603

Desk Phone: 520-432-8503

Fax: 520-432-5835

Secondary: Eric Silverberg

Superior Court Administrator

101 Quality Hill

Bisbee, AZ 85603

Desk Phone: 520-432-8505

Fax: 520-432-5835

Attachment A
SAFETY SENSITIVE POSITIONS SUBJECT TO RANDOM AND/OR PRE-EMPLOYMENT
DRUG TESTING

These lists may be updated as job classifications change.

Safety Sensitive Positions Subject to Random and Pre-Employment Drug Testing:

Sheriff
Chief Deputy Sheriff
Deputy Sheriff Commander
Deputy Sheriff Lieutenant
Deputy Sheriff Sergeant
Deputy Sheriff
Detention Commander
Detention Lieutenant
Detention Sergeant
Detention Corporal
Detention Officers, including Transport Officers
Detention Medical Services Manager
Detention Nurse
Detention LPN
Correctional Health Technician
~~Superintendent, Highways & Floodplain~~
Road Maintenance Foreman
Equipment Operator I
Equipment Operator II
Equipment Operator III
Mechanic I
Mechanic II
Mechanic III
Mechanic IV
Equipment/Vehicle Maintenance Technician
Truck Driver
Any Safety Sensitive Judicial positions covered under the Arizona Code of Judicial Administration.

Safety Sensitive Positions Subject to Pre-Employment Drug Testing:

Dispatch Communications Specialist
Dispatch Communications Specialist, Senior
Dispatch Communications Program Coordinator

Attachment B
EMPLOYEE ACKNOWLEDGMENT FORM

I understand that:

- Cochise County is strongly committed to programs that promote safety in the workplace, employee health and well-being, public confidence and trust.
- Consistent with the spirit and intent of this commitment, Cochise County has a zero tolerance policy when it comes to the use, possession, or distribution of drugs and use or presence of alcohol in the system while employees are on the job.

I understand that this policy requires me to:

- Submit to drug [and/or](#) alcohol tests under the provisions of the Policy, and
- Report to my supervisor any over-the-counter or prescribed medications that I am taking which may impair my ability to do my job, and
- Report any drug or alcohol arrest or conviction to my supervisor, whether occurring during duty hours or outside of employment.
- Immediately report any on the job vehicle or equipment incident to my supervisor.
- [Immediately report to my supervisor either actual knowledge or reasonable suspicion that any employee has the presence of a controlled substance or alcohol in their system while in a work capacity.](#)

I further understand that upon my written request I am entitled to a copy of my test results from any drug or alcohol testing conducted in conjunction with my employment with Cochise County.

By my signature below, I acknowledge that I have read and understand the Drug & Alcohol Policy and Procedures and accept that compliance with this policy is a condition of my continued employment with the County. I further acknowledge that if I violate the Drug & Alcohol policy, I am subject to disciplinary action, up to and including termination. Other sanctions may also be imposed by applicable State or Federal law.

Employee's Name (Printed)

Employee's Signature

Date Signed

Attachment C
DEFINITIONS

1. ACCIDENT means an unintentional act that resulted in bodily injury and/or property damage and involving a vehicle and/or equipment.
2. ACTUAL KNOWLEDGE based on direct observation of the employee's use of controlled substances or alcohol.
3. ADULTERATED SPECIMEN means a urine specimen containing an unexpected substance or an extraordinary concentration of a substance.
4. ALCOHOL means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.
5. ALCOHOL CONCENTRATION means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test.
6. ALCOHOL SCREENING TEST means a scientific analysis of either breath or blood to determine whether an employee may have a prohibited concentration of alcohol.
7. ALCOHOL USE means the consumption of any beverage, mixture, preparation, including any medication containing alcohol.
8. CONFIRMED DRUG TEST means a confirmation test result received by an MRO from a laboratory.
9. CONFIRMATORY CONTROLLED SUBSTANCE TEST means a second analytical procedure performed on a urine specimen to identify and quantify the presence of a specific drug or drug metabolite.
10. CONTROLLED SUBSTANCE means a drug, substance or immediate precursor identified, defined or listed in Arizona Revised Statutes, title 36, chapter 27, article 2;

including, but not limited to cannabis, heroin, cocaine, morphine, phencyclidine (PCP), amphetamines, barbiturates and hallucinogens.

11. DESIGNATED TESTING FACILITY means the nearest testing facility to the location of the incident.
12. DISCIPLINARY ACTION means action taken to penalize the employee's actions prohibited by this policy up to and including termination.
13. DOT means an agency of the United States Department of Transportation administering regulations requiring alcohol and/or drug testing in accordance with 49 CFR Part 40 and 49 CFR Part 382.
14. EMPLOYEE or DESIGNATED EMPLOYEE means any individual employed by Cochise County who is declared by this policy to be subject to alcohol and controlled substances testing. "Employee" shall include a prospective employee, full time, part-time, temporary, occasional, leased and seasonal employment.
15. EMPLOYER means the governmental entity of Cochise County employing one or more employees that are subject to the ACT.
16. INCIDENT means any equipment or vehicle damage (other than windshield damage due to common road or environmental hazard) any injury to the employee or any other person or property.
17. INCONCLUSIVE TEST RESULTS means results obtained from controlled substance or alcohol tests that are unable to provide any evidentiary value as to the drug being tested.
18. MEDICAL REVIEW OFFICER (MRO) means a licensed physician responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret, evaluate and verify an individual's confirmed positive test result together with his/her medical history and any other relevant biomedical information. ~~MEDICAL REVIEW OFFICER (MRO) means a licensed physician (MD or DO) selected by the County to receive and review confirmed positive drug test results from the laboratory and evaluate medical explanations for certain drug test results.~~
19. PERFORMING A SAFETY-SENSITIVE FUNCTION means an employee is considered to be performing a safety-sensitive function during any period in which he or she is on duty performing, ready to perform, or immediately available to perform job assignments.
20. REFUSAL TO SUBMIT (to a controlled substance or alcohol test) means that refusal to submit will subject the employee to disciplinary action, up to and including termination. Examples of an employee refusing to submit to a controlled substance or alcohol test include but are not limited to:
 - a. Fails to provide adequate urine or breath sample for testing without a valid medical explanation,
 - b. Tampering with or adulterating a specimen,
 - c. Interference with the collection procedure,
 - d. Fails to timely appear for any scheduled controlled substance or alcohol test,
 - e. Failing to remain at the collection site until the collection process is complete,
 - f. Leaving the scene of an accident without a valid reason before the tests have been conducted
 - g. Failure to sign associated documents

21. SAFETY-SENSITIVE FUNCTION means all time from the time an employee begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibilities for performing work. Safety-sensitive functions include the functions or a combination thereof:

- a. All time inspecting any motorized equipment, servicing, or conditioning any equipment
- b. All time spent at the driving controls.
- c. All time spent, other than driving time, in or on equipment.
- d. All time loading or unloading equipment, supervising, or assisting in the loading or unloading, attending equipment being loaded or unloaded, remaining in readiness to operate equipment.
- e. All time spent performing the driver requirement associated with an accident.
- f. All time spent repairing, obtaining assistance, or remaining in attendance upon disabled equipment.
- g. All time at a carrier or shipper plant, terminal, facility or other property, waiting to be dispatched to work, unless the employee has been relieved from duty by the County.
- h. Officers who are regularly assigned to detention, dispatch or law enforcement who have an incumbent duty to protect the citizenry of the County.